

ASSEMBLY BILL

No. 1025

Introduced by Assembly Member McCarthy

February 20, 2003

An act to amend Section 273a of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1025, as introduced, McCarthy. Child endangerment: controlled substances.

Existing law generally provides that any person who willfully causes or permits any child to suffer unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the child to be placed in a situation where his or her person or health is endangered, is guilty of a misdemeanor, except that if the person engages in the prohibited acts under circumstances or conditions likely to produce great bodily harm or death the person shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for 2, 4, or 6 years.

This bill would provide that any person who willfully causes or permits any child to absorb, inhale, or otherwise ingest cocaine, cocaine base, heroin, methamphetamine, GHB, or phencyclidine, or having the care or custody of any child, willfully causes or permits that child to be placed in a situation in which he or she may absorb, inhale, or otherwise ingest cocaine, cocaine base, heroin, methamphetamine, GHB, or phencyclidine, shall be punished by imprisonment in a county jail not exceeding one year or in the state prison for 2, 4, or 6 years. By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 273a of the Penal Code is amended to
2 read:

3 273a. (a) Any person who, under circumstances or
4 conditions likely to produce great bodily harm or death, willfully
5 causes or permits any child to suffer, or inflicts thereon
6 unjustifiable physical pain or mental suffering, or having the care
7 or custody of any child, willfully causes or permits the person or
8 health of that child to be injured, or willfully causes or permits that
9 child to be placed in a situation where his or her person or health
10 is endangered, shall be punished by imprisonment in a county jail
11 not exceeding one year, or in the state prison for two, four, or six
12 years.

13 (b) ~~Any~~ Except as provided in subdivision (c), any person who,
14 under circumstances or conditions other than those likely to
15 produce great bodily harm or death, willfully causes or permits any
16 child to suffer, or inflicts thereon unjustifiable physical pain or
17 mental suffering, or having the care or custody of any child,
18 willfully causes or permits the person or health of that child to be
19 injured, or willfully causes or permits that child to be placed in a
20 situation where his or her person or health may be endangered, is
21 guilty of a misdemeanor.

22 (c) Notwithstanding subdivision (b), or any other provision of
23 law, any person who willfully causes or permits any child to
24 absorb, inhale, or otherwise ingest cocaine, cocaine base, heroin,
25 methamphetamine, GHB, or phencyclidine, or having the care or
26 custody of any child, willfully causes or permits that child to be
27 placed in a situation in which he or she may absorb, inhale, or
28 otherwise ingest cocaine, cocaine base, heroin,
29 methamphetamine, GHB, or phencyclidine, shall be punished by
30 imprisonment in a county jail not exceeding one year or in the state
31 prison for two, four, or six years.



1 (d) If a person is convicted of violating this section and
2 probation is granted, the court shall require the following
3 minimum conditions of probation:

4 (1) A mandatory minimum period of probation of 48 months.

5 (2) A criminal court protective order protecting the victim from
6 further acts of violence or threats, and, if appropriate, residence
7 exclusion or stay-away conditions.

8 (3) (A) Successful completion of no less than one year of a
9 child abuser's treatment counseling program approved by the
10 probation department. The defendant shall be ordered to begin
11 participation in the program immediately upon the grant of
12 probation. The counseling program shall meet the criteria
13 specified in Section 273.1. The defendant shall produce
14 documentation of program enrollment to the court within 30 days
15 of enrollment, along with quarterly progress reports.

16 (B) The terms of probation for offenders shall not be lifted until
17 all reasonable fees due to the counseling program have been paid
18 in full, but in no case shall probation be extended beyond the term
19 provided in subdivision (a) of Section 1203.1. If the court finds
20 that the defendant does not have the ability to pay the fees based
21 on the defendant's changed circumstances, the court may reduce
22 or waive the fees.

23 (4) If the offense was committed while the defendant was under
24 the influence of drugs or alcohol, the defendant shall abstain from
25 the use of drugs or alcohol during the period of probation and shall
26 be subject to random drug testing by his or her probation officer.

27 (5) The court may waive any of the above minimum conditions
28 of probation upon a finding that the condition would not be in the
29 best interests of justice. The court shall state on the record its
30 reasons for any waiver.

31 SEC. 2. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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